IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6836 OF 2007

Khubsing Bhamlu Rathod ...Petitioners

Versus

Pandurang Phulsing Rathod

and Ors. ....Respondents

V.D.Patil, for the petitioners.

Ms.P.S.Cardozo, AGP for respondent nos.3 to 6.

Pradip R.Kadam for respondent no.1.

CORAM: S.C.DHARMADHIKARI, J.

11th December, 2007.

P.C. :

1. While issuing notice this court has granted an order in terms of prayer clause (d),with the result the operation of the Revisional Authoritie's order dated 6.9.2007 which is impugned before me, has been stayed.

2. The Minister was seized of an Revision Application

at the instance of respondent no.1 which was challenging an Order dated 22.2.2006. That order of 22.2.2006 was on an Appeal of the present petitioner and the respondent no.2 before me. The Appeals were partly allowed and the order of the District Supply Officer dated 25.10.2005 was quashed and set aside and the matter was remand to Sub-Divisional Officer to decide the issue of allotment of kerosene dealers licence in accordance with law.

3. The grievance of the present petitioner is that the appellate Authority's order requires no interference, inasmuch as, the first respondent was interested in the allotment. He desired an allotment in his favour. He therefore pointed out that although there is a allotment made in favour of the present petitioner (respondent no.3 before the Revisional Authority, yet, he has been fined for certain irregularities and violations of the provisions of the control order. Insofar as the other respondent is concerned, the argument is that the said respondent is not a local resident.

4. The petitioner had pointed out all throughout that the entire story of his being fined is bogus, inasmuch as, he had complained and pursuant to his complaint, an inquiry was made and it appears that the order imposing fine is dated 6.11.2005.

5. The allotment is made much prior i.e. on 25.10.2005 in his favour. In such circumstances, the Minister could not have interfered with the direction of remand. All that the Appellate Authority directed was that there should be fresh appraisal of the applications and whosoever satisfies the criteria so also the order of priority should be considered for grant of licence. Such an order does not prejudice the first respondent in any manner, leave alone the parties. All that it ensures is a fair and just procedure of allotment and grant of kerosene licence. In such circumstances, the Revisional Authority was in clear error in interfering with the order of the Appellate Authority. There was no occasion for the Revisional Authority to have discussed the merits of the applications. Therefore, the Revisional Authority

was in error in interfering and setting aside the order of the Appellate Authority at the instance of first respondent before me. Even the issue of fine was not such, as would warrant interference.

4. In the result, the order of the Revisional Authority dated 6.9.2007 impugned in this petition is quashed and set aside and that of the Appellate Authority is restored. The applications will now be scrutinised in accordance with the Rules and prevalent policies and a decision be taken as expeditiously as possible and, in any event, within a period of two months from the date of receipt of a copy of this order.

5. Needless to state, that the Authority in-charge of issuing of licences to decide the application on their own merits and uninfluenced by any observations in the order including the one impugned before me.

sd/-

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